IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIRST DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 6023 of 1999

Between:

1. S. Eswaramma w/o Satyanarayana, P.04, 63 yrs, R/o D.No. 44-5-52, Thatichetlapalam village, Visakhapatnam,

2. A. Satyavathi w/o Uma Kesava Rao, P.28 58 years, R/o D.No. 43-12-9/12 Subhalakshminagar, Visakahapatnam-16

3. P. Vijayalakshmi w/o P.A. Rama Sarma, P-58, 59 years, R/o D.No. 38-31-1, Green Gardens, Marripalem, Visakhapatnam

4. D.A.N. Murthy, 61 years, Plot No. 8,Bhawani Apartments, Seethammadhara, Visakhapatnam-13

5. K. Pydiraju, 65 years, Plot No.53, C/o K. Sreenivasa Rao, Rly. Qr. No. 482/B, Wireless Colony, Visakahapatnam-4

6. A. Rama Mohana Rao, s/o China Veeraswamy Naidu, Plots 25 and 26, R/o D.No. 43-12-9/12, Subhalakshminagar, Visakhapatnam-16

7. K. Sanyasamma w/o Veerabhadra Rao, age 72 years, C/o K. Kalidasu, Malakonda Rly. Qrs. Near Thatichetlapalem, Visakhapatnam

8. M. Bhanumathi Joseph w/o M.A. Joseph, 65 yrs, P-30, D.No. 58-14-127, Shanthinagar, N.A.D. (P.O) Visakhapatnam-9

9. P. Venkataratnam w/o Nooka Raju, Plot NO.02, R/o D.No. 25-11-13, Rudrivari street, Visakhapatnam—1

10.G.Ramanamma W/O JAGANNADHA Rao, PLOT NO.10, d.NO. 44-5-50, Thatichetlamapalem, Visakhapatnam-16 (Survey No.140/-1-b)

11. G.Varalakshmi w/o Venkata Rao, Plot NO.15, R/o D.No. 44-34-64/4, Nandagiri Nagar, Visakhapatnam-16 (Survey No. 140/1-A)

12. Chinta Santhamma w/o Penta Rao, Plot No.18, R/o D.No. 49-11-4, Lalithanagar, Visakhapatnam-16 (Survey No.140-1.A)

..... PETITIONER

AND

1. The District Collector, Visakhapatnam,
2. The Mandal Revenue Officer, Gajuwaka, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of a writ of Mandamus directing the respondents not to allot the plots of the petitioners herein in survey Nos. 139/1 and 140/1-A&B to any third parties.

For the Petitioner: SMT.D.PRASANNA KUMARI, Advocate

For the Respondents .: GP FOR REVENUE

The Court made the following :

O R D E R

This Writ Petition is filed seeking a writ of Mandamus against the respondents not to allot the plots of the petitioner to any third parties in Survey Nos. 139/1 and 140/1-A&B, situated at Duvvada village, Visakhapatnam to any third parties.

It is the case of the petitioners that they have purchased house site plots in the above said survey numbers and the lay-out was approved by the Gram Panchayat of Duvvada village, Visakhapatnam. In proof of their possession of the plots in question, the petitioners are relying on the land revenue receipts. It is the case of the petitioners that though they are in possession by virtue of their purchase, the respondents are allotting these plots to third parties for house-sites. As such, they came up with this petition.

In the counter affidavit filed on behalf of the respondents, it is stated that the land in Survey No. 139/1 admeasuring Ac. 4.85 cents and Survey No. 140/1 admeasuring

Ac. 3.75 cents, total admeasuring Ac. 8.60 cents is a Government poramboke land. It is also stated that the land in survey No. 139/1 was initially assigned and on the ground that assignee has violated the conditions of assignment, the same was resumed and a lay-out was prepared making 185 plots and the same was approved by Visakhapatanm Urban Development Authorities. It is stated in the counter-affidavit that the petitioners in collusion with the Gram Panchayat Sarpanch and some other real estate business men, prepared fictitious documents and executed sale deeds mentioning survey Nos. 139/1 and 140/1A.

From the counter-affidavit and the stand of the respondents, it is a clear case where there is a factual dispute with regard to the title and possession. Whereas it is the case of the petitioners that they have purchased the plots in question, on the other hand, it is the stand of the respondents in the counter-affidavit that the land in question is the Government land and the lay out is obtained and the same is approved by the Visakhapatnam Urban Development Authorities, for the purpose of allotting house-sites to the needy and weaker sections. As much as the title of the petitioners is denied, the same cannot be adjudicated in this petition, which is filed under Article 226 of the Constitution of India. In that view of the matter, there are no grounds to interfere, in the matter, in exercise of powers under Article 226 of the Constitution of India.

The writ petition is devoid of merits, and the same is accordingly dismissed. No costs.

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(R. SUBHASH REDDY, J)

1st July, 2004

vp

ASST. REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The District Collector, Visakhapatnam,
2. The Mandal Revenue Officer, Gajuwaka, Visakhapatnam,
3. 2 C.Cs to Spl. G.P. for Revenue, High Court buildings, Hyderabad (OUT)
4. 2 C.D. copies.